IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 8172 of 1999

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

PATEL MUKESHBHAI BABUBHAI

Versus

STATE OF GUJARAT

Appearance:

MS SUBHADRA G PATEL for Petitioner

MS TALATI AGP for Respondent No. 1, 2, 3

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 18/02/2000

ORAL JUDGEMENT

Heard the learned advocates. The petitioner challenges the order of preventive detention dated 1st July, 1999, made against him by the District Magistrate, Bhavnagar, in exercise of the powers conferred upon him under section 3 (2) of the Gujarat Prevention of Anti Social Activities Act, 1985 (hereinafter referred to as

'the Act').

The grounds of detention suggest that some four offences punishable under Chapter-XVI of the IPC have been registered against the petitioner during the period from August 1996 to June 1999 and are pending trial. Besides, the statements made by four witnesses have been relied upon by the Detaining Authority. It is held that the petitioner is a 'dangerous person' within the meaning of section 2 (c) of the Act and his activities are prejudicial to the maintenance of public order. The Detaining Authority in the grounds of detention has recorded that the above referred witnesses were summoned before him and he had personally verified the correctness of the statements and the genuineness of the apprehension of danger to their lives expressed by them. However, it is contended that the said statement made in the grounds of detention is not supported by the evidence on record.

I have perused the record and I find that the statements of the witnesses were recorded by the Police Inspector and were verified by the Divisional Police Officer. The statements of the witnesses are endorsed by the District Magistrate on 1st July, 1999 as 'verified'. From the endorsement made by the District Magistrate, it is not possible to infer that the concerned witnesses were summoned before the District Magistrate. To me, it appears that the statements made in the grounds of detention in respect of the verification of the statements made by the witnesses is not supported by the evidence on record. The subjective satisfaction recorded by the Detaining Authority is, therefore, vitiated. Consequently, the continued detention of the petitioner is illegal and invalid.

Petition is, therefore, allowed. The impugned order of preventive detention dated 1st July, 1999, is quashed and set aside. The petitioner, unless is required to be detained in some other case, be released forthwith. Rule is made absolute accordingly. There shall be no order as to costs.

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JOSHI*